



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,117	02/19/2004	Norman Tyler	23 - 0544	5389

40158 7590 12/05/2005

WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117

EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT	PAPER NUMBER
----------	--------------

3724

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,117

Applicant(s)

TYLER, NORMAN

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

The amendment filed on 11-1-2005 has been entered. Upon further consideration, the allowable subject matter of claim 8 has been withdrawn. Any inconvenience to the Applicant is regretted.

Drawings Objection

The drawings sheet filed on 9-26-2005 is objected to because it does not show the medial portion of the elongated sheath being offset from ends of the elongated sheath by about one sixteenth inches as claimed in claim 8 and 10.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by De Vaughn (U.S. Patent No. 3,381,807).

The blade holding tool of De Vaughn shows all the claimed structure which comprises an elongate sheath (50') having a blade receiving opening extending into the elongated sheath (50') for snugly receiving an end of a blade (12, see Fig.4), the elongated sheath is bowed (i.e. the arched middle portion, see Fig.3 and column 2, lines 58-62) along a longitudinal axis of the elongate sheath (50'), and the elongated sheath (50') having an oblong cross-sectional shape as claimed.

The statement of intended use (i.e. for facilitating holding a rotary blade during manipulation of the rotary blade) adds no structure to and is of no patentable import in the claimed blade holding device.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 3, 5, 8 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Vaughn (U.S. Patent No. 3,381,807).

The blade holding device of De Vaughn as set forth shows all the claimed structure. In addition, the medial portion of the elongated sheath (50') is offset from ends of the elongated sheath (see Figs.3 and 4) as claimed. The degree of offset depends more upon the thickness of the blade that is to be held by the blade holding tool than on any inventive concept.

Claims 2, 3, 5, 11, 12 and 14 are directed to the dimensions for both the opening and the elongate sheath. However, the claimed dimensions are not patentably distinct over De Vaughn, since the size of the blade holding tool (its blade receiving opening, its length and width) depends more upon the size of the blade that is to be held in the blade holding tool than on any inventive concept.

3. Claims 6, 9, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Vaughn (U.S. Patent No. 3,381,807) in view of Kawashima (U.S. Patent No. 6,138,363).

The blade holding tool of De Vaughn as set forth shows all the claimed structure except it lacks an aperture opposite the blade receiving opening.

Kawashima shows a blade holding tool (2) comprising an aperture (11) positioned proximate an end of an elongate blade sheath (6) opposite a blade-receiving opening (8).

It would have been obvious to one skilled in the art to modify De Vaughn by providing the blade holding tool with an aperture to facilitate hanging the blade holding tool as taught by Kawashima.

Remarks

Applicant's arguments with respect to claims 1-7 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Newly added Fig.3 shows the elongated sheath being bowed along a longitudinal axis of the elongated sheath but it fails to show a medial portion of the elongated sheath is offset from ends of the elongated sheath by about one sixteenth inches.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

H Payer
November 30, 2005

H Payer

~~Hwei-Shu Payer~~
~~Primary Examiner~~